


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PHABIOLA GAILLARD FLEARY	:	CIVIL ACTION
	:	
v.	:	NO. 23-5055
	:	
ZURICH AMERICA INSURANCE	:	
COMPANY	:	

ORDER

AND NOW, this 11th day of January 2024, upon considering Defendant's Motion to dismiss (ECF No. 6) and Plaintiffs' Notice (ECF No. 9) consenting to Defendant's proposed Order (ECF No. 6-1) dismissing Plaintiffs' statutory bad faith and loss of consortium claims, it is **ORDERED** Defendant's Motion to Dismiss (ECF No. 6) is **GRANTED** requiring:

1. We **dismiss** Plaintiffs' claim for statutory bad faith **without prejudice** and **strike** all references to a fiduciary duty or fiduciary obligation from the Complaint (ECF No. 1-1);
2. We **dismiss** Plaintiff's claim for loss of consortium **with prejudice**;
3. Plaintiff Sean Fleary is **dismissed with prejudice** requiring we **amend** the caption as above;
4. We **allow** Plaintiffs to proceed on the underinsured motorist benefits claim subject to further review; and
5. Defendant shall file an answer to the Complaint (ECF No. 1-1) no later than **January 25, 2024**.



KEARNEY, J.